

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

733I0631

HOUSE BILL NO. 1187

Introduced by: Representatives Weems, Buckingham, Hennies, Koistinen, Kraus, LaRue, Madsen, Miles, Novstrup, O'Brien, Peterson (Bill), Putnam, Rave, Smidt, Teupel, and Van Etten and Senators Jaspers, Abdallah, Duniphan, Kelly, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to prohibit the use of scanning devices or reencoders to
2 defraud and to provide a penalty therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

- 5 (1) "Payment card," a credit card, charge card, debit card, or any other card that is issued
6 to an authorized card user and that allows the user to obtain, purchase, or receive
7 goods, services, money, or anything else of value from a merchant;
- 8 (2) "Reencoder," an electronic device that places encoded information from the magnetic
9 strip or stripe of a payment card onto the magnetic strip or stripe of a different
10 payment card;
- 11 (3) "Scanning device," a scanner, reader, or any other electronic device that is used to
12 access, read, scan, obtain, memorize, or store, temporarily or permanently,
13 information encoded on the magnetic strip or stripe of a payment card.

14 Section 2. For the purposes of this Act, a merchant is an owner or operator of any retail



1 mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee,
2 or independent contractor of such owner or operator. The term, merchant, includes a person who
3 receives from an authorized user of a payment card, or someone the person believes to be an
4 authorized user, a payment card or information from a payment card, or what the person believes
5 to be a payment card or information from a payment card, as the instrument for obtaining,
6 purchasing, or receiving goods, services, money, or anything else of value from the person.

7 Section 3. No person may use a scanning device to access, read, obtain, memorize, or store,
8 temporarily or permanently, information encoded on the magnetic strip or stripe of a payment
9 card without the permission of the authorized user of the payment card and with the intent to
10 defraud the authorized user, the issuer of the authorized user's payment card, or a merchant. A
11 violation of this section is a Class 6 felony.

12 Section 4. No person may use a reencoder to place information encoded on the magnetic
13 strip or stripe of a payment card onto the magnetic strip or stripe of a different card without the
14 permission of the authorized user of the card from which the information is being reencoded and
15 with the intent to defraud the authorized user, the issuer of the authorized user's payment card,
16 or a merchant. A violation of this section is a Class 6 felony.